

LATERAL TIE-BACK AGREEMENT
AND CONSENT TO USE OF CRANE

THIS LATERAL TIE-BACK AGREEMENT (this "Agreement") is made as of _____, 2015 (the "Effective Date") by and between **FULL POWER PROPERTIES, LLC**, a California limited liability company ("Developer"), and the **CITY OF SAN JOSE**, a municipal corporation of the State of California ("Owner"), recites as follows:

RECITALS

- A. Owner is the fee owner of certain real property located at 175 West Saint John Street in the City of San Jose, County of Santa Clara, State of California, as more particularly described on Exhibit A attached hereto (the "Owner Property"). The Owner Property is improved with a historical building and other structures and improvements designated as a historical landmark (the "Fallon House"). The Fallon House and all other improvements located on the Owner Property are collectively referred to herein as the "Owner Improvements."
- B. Developer is the fee owner of certain real property located adjacent to the Property, on the south side of West St. James Street, between Terraine and North San Pedro Streets (the "Developer Property"). Developer intends to develop a mixed used residential and retail building on the Developer Property. The development and construction of the aforesaid mixed used residential and retail building, is referred to herein as the "Project".
- C. The Owner Property and the Developer Property share a common property line on the northwestern boundary of the Owner Property and on the southeastern boundary of the Developer Property (the "Common Boundary").
- D. In connection with the development of the Project, the Developer intends to use a shoring system for its excavation that utilizes below-grade anchors ("Tie-Back Anchors"). The Tie-Back Anchors will be situated along the Common Boundary and will encroach into the subterranean portions of the Owner Property. Some of the Tie-Back Anchors will be positioned below portions of the Fallon House. The Tie-Back Anchors will be placed in the approximate locations shown on Exhibit B attached hereto. The drilling, installation, and other work related to the Tie-Back Anchors, as consented to by Owner pursuant to this Agreement, are collectively referred to as the "Subsurface Work".
- E. In connection with the Subsurface Work and the construction of the Project, Developer intends to operate construction cranes on the Developer Property; provided, however, no materials or "loads" will ever be carried over or across the airspace directly above the Owner Property.
- F. Developer has requested Owner that Owner grant certain easements and encroachments to Developer as provided herein and give its consent to the use of the Crane (defined below) as described above, and the rights of ingress and egress onto the Owner

Property as may be reasonably necessary to perform the Subsurface Work.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Owner's Consent and Grant.

1.1. Grant of Subsurface Easement and Consent to Encroachment. Subject to Developer or its successors and assigns' faithful compliance, fulfillment and performance of each of the covenants and conditions in this Agreement, as applicable, Owner hereby grants to Developer, and to its successors and assigns that are expressly permitted pursuant to this Agreement (i) the right to the encroach upon the subsurface areas of the Owner Property for the purpose of installing, maintaining and removing the Tie-Back Anchors on those subterranean portions of the Owner Property that are along the Common Boundary to the extent that the placement of such Tie-Back Anchors are necessary to support temporary shoring of soil and surface materials during the construction of the Project, and (ii) the right of ingress and egress by Developer and its contractors and consultants onto the Owner Property, upon prior notice in accordance with Section 3.3.3 below, at reasonable times to perform the Subsurface Work, provided such ingress and egress does not unreasonably disturb the use and enjoyment of the Owner Property by Owner and/or Owner's tenants. In addition to the other conditions contained in this Agreement, upon completion of the Project the Tie-Back Anchors installed by Developer on the Owner Property will remain in-place, provided that an engineer certifies that the presence of the Tie-Back Anchors will not result in or present any additional hazards or dangers to the safety or structural integrity of the Fallon House or any other improvements on the Owner Property, as determined by owner in its reasonable discretion upon advice and consultation from its engineers and consultants. If such engineer recommends the removal of the Tie-Back Anchors, then Developer shall promptly cause the Tie-Back Anchors to be removed.

Notwithstanding anything to the contrary contained herein, if the Tie-Back Anchors remain in place following completion of the Project, Owner shall have the right to remove or alter any Tie-Back Anchors that have been left on the Owner Property.

1.2. Consent to Building Crane. Subject to Developer or its successors and assigns' compliance, fulfillment and performance of each of the covenants and conditions contained in this Agreement, as applicable, Owner hereby consents to the placement of a crane on the Developer Property by Developer (the "Crane"); provided that Developer does the following: (1) The Crane is only used by Developer in a manner which does not unreasonably interfere with Owner's use and enjoyment of the Owner Property, (2) No materials or "loads" shall ever be carried or transported above, over or across the Owner Property at any time; and (3) Developer shall cause the Crane to be operated in compliance with all governmental requirements and applicable laws. Moreover, Developer shall be responsible for and liable to Owner for any damages or injury to persons or property as a result of Developer's operation of the Crane, and shall

immediately cause the repair of such damage or injury to begin promptly and/or to promptly indemnify Owner for any damage to the Owner Property caused by, arising out of or resulting from the operation of its Crane.

1.3. The grant of the easements and encroachment provided in Section 1.1 above and the consent to the use of the Crane as provided in Section 1.2 above will terminate upon the earlier of (A) three years after the Effective Date or (B) the completion of the Project (the "Completion Date"). Notwithstanding anything to the contrary contained in this Agreement, Developer's rights under Sections 1.1 and 1.2 of this Agreement shall automatically terminate upon the breach by Developer of any material term, covenant or condition set forth in this Agreement.

2. Compensation. As compensation for the rights granted herein, Developer shall pay to Owner a fee in the amount of Fifty Thousand Dollars (\$50,000) (the "Encroachment Fee"). The payment shall be delivered to Owner by certified check or other method agreed to by Owner together with a copy of this Agreement executed by Developer.

3. Developer Covenants.

3.1. Approval of Plans.

3.1.1. Prior to the commencement of the Subsurface Work, Developer shall submit the plans and schedule for such Subsurface Work (the "Plans") to the Owner and obtain the Owner's written approval of the Plans; provided, however, Owner may only disapprove plans submitted or resubmitted for its approval if, in its reasonable judgment, the improvements and work contemplated in the plans would negatively affect the structural integrity or use of the Owner Property and/or the Owner Improvements. Any disapproval of submitted or resubmitted Plans shall include a detailed explanation of the reason for disapproval and the steps necessary to obtain approval.

3.1.2. Owner shall not, when reviewing submitted or resubmitted Plans, be responsible for reviewing, nor shall its approval of any Plans be deemed an approval of, structural safety, architectural or engineering design or conformance with the building or other codes.

3.2. Inspection of Existing Condition; Repair.

3.2.1. Prior to commencement of the Subsurface Work Developer shall perform a visual pre-construction crack and damage survey of the interior and exterior portions of the Fallon House. Developer shall collect detailed photographic evidence of the condition of the Fallon House and shall provide copies of such photographs and other evidence to Owner.

3.2.2. Prior to commencement of the Subsurface Work Developer shall obtain an inspection from a certified engineer of the structural condition of the Fallon House and such inspection shall include recommendations, if any,

to prevent any structural damage to the Fallon House and Developer shall implement or perform such work in accordance with such recommendations. The engineer shall be an engineer reasonably approved or selected by Owner and paid for by Developer.

- 3.2.3. Immediately after completion of the Project, Developer shall perform an inspection of the Owner Property for damage and shall repair and/or restore the Owner Improvements to the condition in which they existed prior to commencement of the Subsurface Work. Developer shall promptly repair and/or restore any damage caused as a result of the operation of the Crane.

3.3. Covenants re: Installation and Construction and Access to the Owner Property.

- 3.3.1. Developer shall cause the Subsurface Work to be performed in accordance with the Owner approved Plans and all applicable laws. Developer shall only place the Tie-Back Anchors in substantially the locations shown on Exhibit B hereto.
- 3.3.2. Developer shall cause the Tie-Back Anchors to be installed by drilling at an angle, below any substructures of the Fallon House or Owner Improvements. The drilling and installation of the Tie- Back Anchors shall be performed only from the Developer Property. Developer shall not enter the Owner Property for the purpose of installing the Tie-Back Anchors.
- 3.3.3. No less than five (5) business days prior to entering onto the Owner Property to perform any pre-construction work or evaluation on the Owner Property and ten (10) business days prior to commencing any construction work on the Owner Property or the performance of any Subsurface Work, Developer shall provide written notice to Owner at 200 East Santa Clara Street, San Jose, CA Attention Real Estate Services and Asset Management and to History San Jose at 1650 Senter Road, San Jose, CA 95112, Attention President/CEO. Such notice shall include (1) the date that construction will begin, (2) a schedule that generally describes the work that will be performed and the days in which it will be performed, (3) evidence of the insurance required hereunder, and (4) the name and contact information of the project manager in charge of the work that will be performed.
- 3.3.4. Developer shall be responsible for and shall promptly pay for all costs associated with any preconstruction work or construction work required to be performed on the Owner Property in accordance with this Agreement and the cost of the Subsurface Work and any other cost necessary for the full performance of Developer's covenants and obligations under this Agreement.

- 3.3.5. Developer covenants (i) that it will not carry out the installation of any improvements, or otherwise excavate or perform the Subsurface Work or any other construction on the Developer Property in a manner that will adversely impact the structural support and integrity of any of the Owner Improvements and (ii) that all Project improvements shall be designed on a stand-alone basis and shall not rely on the Tie-Back Anchors or any other improvements located on the Owner Property.
- 3.3.6. Developer shall not allow the Crane booms to be left or stored over the Owner Property when the Crane is not in active use. For purposes of this Agreement, "active use" means continuous use for the moving of loads and supporting construction during the course of each construction work shift.

4. Developer's Indemnity. To the fullest extent permitted by law, Developer agrees to indemnify, hold harmless and defend Owner and Owner's successors, assigns, contractors, agents, employees, invitees, licensees and permittees (collectively, the "Indemnified Parties") from and against any and all losses, damages (including, without limitation, damages for injury to property or persons), claims, actions, liabilities, costs and expenses (including, without limitation, actual attorneys' fees, litigation and court costs, amounts paid in settlement and amounts paid to discharge judgments) to which the Indemnified Parties, or any of them, may become subject under federal or state laws or otherwise, arising out of or based upon or in any way relating to the Project including, without limitation, the following:

- (a) this Agreement or any transactions contemplated thereby;
- (b) any act or omission of Developer or any of its agents, contractors, subcontractors, servants, employees or licensees in connection with the Subsurface Work or use of the Crane;
- (c) any violation of any applicable rules, laws, regulations, or ordinances related to the Subsurface Work and/or the Project, or
- (d) the breach by Developer of any covenant, condition, term or provision of this Agreement.

In the event that any action or proceeding is brought against any Indemnified Party with respect to which indemnity may be sought hereunder, Developer, upon written notice from the Indemnified Party, shall immediately (i) assume the investigation and defense thereof, including the employment of counsel selected by Developer, and approved by the Indemnified Party in its reasonable discretion, and (ii) shall assume the payment of all expenses related thereto, with full power to litigate, compromise or settle the same in its sole and absolute discretion. Each Indemnified Party shall have the right to employ separate counsel selected by Developer, and approved by such Indemnified Party in its reasonable discretion, in any such action or proceeding and participate in the investigation and defense thereof, and Developer shall pay the actual fees and expenses of such separate counsel; provided, however, that such Indemnified Party may only employ separate counsel at the expense of Developer if in Owner's reasonable judgment a conflict of interest exists by reason of common representation or if all parties

commonly represented do not agree as to the action (or inaction) of counsel. The indemnity herein shall survive any termination or expiration of this Agreement.

5. Waiver. If the Tie-Back Anchors are left in place and if at some future date, Owner or its successor in interest excavates the Owner's Parcel, Developer acknowledges that such excavation may result in movement or removal of the Tie-Back Anchors left in place by Developer. As a material part of the consideration for the grant of the easements, encroachments and consents contained herein, Developer, on behalf of itself and its successors and assigns, waives any claim it may have arising from damage of any kind to Developer's Parcel or the Project as a result of the non-negligent movement or removal of the Tie-Back Anchors by Owner or its successors in interest, or any of their contractors or agents engaged in such excavation.

6. Access to Owner Improvements. Developer shall not obstruct access to any of the Owner Improvements or the Owner Property during construction of the Project and Developer shall not materially interfere in any way with the use and enjoyment of such improvements.

7. Insurance. At all times during the performance of the Subsurface Work or use of the Crane and for at least one (1) year following the Completion Date, Developer shall carry minimum policies of insurance as described on Exhibit C ("Developer Insurance Policy"). Developer shall cause Owner to be named as an additional insured under such Developer Insurance Policy. Prior to entering upon the Owner's Property or commencing with the Subsurface Work, Developer shall provide Owner with a certificate evidencing that its obligations under this Section have been satisfied, which certificate shall include a reference that the Developer Insurance Policy cannot be terminated or amended without at least thirty (30) days written notice to Owner.

8. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and sent by registered or certified United States mail, postage prepaid, return receipt requested, or by facsimile, or by personal delivery (by overnight courier or otherwise), or by electronic mail (email) and addressed as follows:

If to Developer: Full Power Properties, LLC
c/o KT URBAN
21710 Stevens Creek Blvd., Suite 200
Attn: Jia Li
E-mail: jli@kturban.com
Fax No.: (408) 255-8620

If to Owner: City of San Jose
Office of Economic Development Real Estate Services & Asset
Management
200 East Santa Clara St.
San Jose, CA 95113
Attn: Real Estate

With a copy to: City of San Jose
Office of the City Attorney
200 East Santa Clara, 16th Floor
San Jose, CA 95113
Attention: Real Estate Attorney

or to such other address as either party may from time to time specify in writing to the other in the manner aforesaid. If sent by United States mail, registered or certified mail, postage prepaid, return receipt requested, such notices or other communications shall be deemed delivered upon delivery or refusal to accept delivery as indicated on the return receipt. If sent by personal delivered (by overnight courier or otherwise), such notices or other communications shall be deemed delivered upon delivery. If sent by facsimile or email, such notices or other communications shall be deemed delivered upon delivery, provided such fax or email is sent prior to 4:00 p.m. California Time on such date (otherwise such fax or email shall be deemed to be delivered and effective as of the next Business Day), and provided further that delivery is also made promptly thereafter by mail or overnight courier as provided above.

9. Entire Agreement/Amendment. This Agreement sets forth the entire understanding of the parties relating to the Subsurface Work and use of the Crane, and supersedes all prior understandings relating to them, whether written or oral. This Agreement may be amended in whole or in part only by mutual written agreement of the Owner and Developer.

10. Attorney Fees. In the event any action or proceeding is initiated to enforce or interpret the provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the other party the prevailing party's reasonable attorney's fees and other legal costs.

11. Authorization to Director of Economic Development. Where this Agreement requires or permits Owner to act and no officer of Owner is specified, the Director or the designated representative of the Director has the authority to act on Developer's behalf.

12. Legal Relationship. Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent, partnership, joint venture or any association between Owner and Developer. Owner and Developer expressly agree that neither the method of computation of rent nor any act of the parties hereto shall be deemed to create any relationship between Owner and Developer other than the relationship of licensee and licensor.

13. Time of the Essence. Time is of the essence hereof, and waiver by the Owner or Developer of a breach of any term, covenant or condition herein contained, whether express or implied, shall not constitute a waiver of any subsequent breach thereof, or a breach of any other term, covenant, or condition herein contained, and acceptance of rent hereunder shall not be a waiver of any breach, except a breach of covenant to pay the rent so accepted. No acceptance by

Owner of any partial payment of any sum due hereunder shall be deemed an accord and satisfaction or otherwise bar Owner from recovering the full amount due, even if such payment is designated "payment in full," bears any restrictive endorsement, or is otherwise conditionally tendered. The times for Developer's performance of any obligations set forth in this Agreement and the Exhibits may be extended by the Director, if he/she finds, at his/her sole discretion, that Developer has been delayed for reasons not in Developer's control. Any such extension shall be in writing.

14. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

15. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of Owner and Developer and their respective successors and assigns. Developer may not assign this Agreement without the written consent of Owner. The assignment by Developer shall not relieve Developer of any of its obligations under this Agreement. For the purposes of this Agreement, there shall be an assignment if there is a transfer or assignment of any of Developer's rights under this Agreement to a person or entity that is not a party to this Agreement, or there is a transfer by statute or operation of law of more than 50% of the rights, title, profits or interest in Developer. The assignment by Developer shall not relieve Developer of any of its obligations under this Agreement.

[Signatures on following pages]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

Owner

CITY OF SAN JOSE,
a municipal corporation of the State of California

Kim Walesh
Director, Office of Economic Development
Deputy City Manager

APPROVED AS TO FORM:

Joshua Taylor
Staff City Attorney

Developer

FULL POWER PROPERTIES, LLC,
a California limited liability company

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION "OWNER PROPERTY"

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

COMMENCING AT A 2" X 3" STAKE STANDING ON THE NORTHERLY LINE OF SAN AUGUSTINE STREET AT THE SOUTHWESTERLY CORNER OF LOT "C" OF THE FALLON PARTITION, AND BEING DISTANT EASTERLY 112.72 FEET FROM THE INTERSECTION OF THE EASTERLY LINE OF TERRAINE STREET; WITH THE NORTHERLY LINE OF SAN AUGUSTINE STREET; THENCE NORTHERLY PARALLEL WITH TERRAINE STREET ALONG THE WESTERLY LINE OF SAID LOT "C" OF THE FALLON PARTITION 94.80 FEET TO A STAKE THENCE EASTERLY PARALLEL WITH SAN AUGUSTINE STREET, 17.22 FEET; THENCE NORTHERLY PARALLEL WITH TERRAINE STREET, 19.27 FEET TO A STAKE; THENCE EASTERLY PARALLEL WITH SAN AUGUSTINE STREET 79.68 FEET TO A STAKE; THENCE SOUTHERLY PARALLEL WITH TERRAINE STREET, 36.92 FEET TO A STAKE; THENCE WESTERLY PARALLEL WITH SAN AUGUSTINE STREET 5.28 FEET TO A STAKE; THENCE SOUTHERLY PARALLEL WITH TERRAINE STREET 77.15 FEET TO A POINT ON THE NORTHERLY LINE OF SAN AUGUSTINE STREET, SAID POINT BEING THE SOUTHEASTERLY CORNER OF LOT "C" OF THE FALLON PARTITION; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAN AUGUSTINE STREET, 91.62 FEET TO THE PLACE OF BEGINNING. BEING PART OF LOT "C" AND "A" OF THE SAID FALLON PARTITION.

PARCEL TWO:

BEGINNING AT THE POINT WHERE THE NORTHERLY LINE OF SAN AUGUSTINE STREET INTERSECTS THE WESTERLY LINE OF SAN PEDRO STREET; THENCE ALONG THE WESTERLY LINE OF SAID SAN PEDRO STREET NORTH 30° 39' WEST 71.15 FEET; THENCE SOUTH 59° 46' WEST 95.61 FEET TO THE EASTERLY LINE OF LOT "C"; THENCE ALONG THE EASTERLY LINE OF SAID LOT "C" SOUTH 30° 39' EAST 77.15 FEET TO THE NORTHERLY LINE OF SAID SAN AUGUSTINE STREET, AND THENCE ALONG THE NORTHERLY LINE OF SAID SAN AUGUSTINE STREET, NORTH 59° 46' EAST 95.61 FEET TO THE PLACE OF BEGINNING. BEING LOT "B" OF THE FALLON PARTITION.

EXCEPTING FROM THE ABOVE DESCRIBED PREMISES THAT PORTION THEREOF PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAN PEDRO STREET DISTANT NORTHERLY ALONG SAID WESTERLY LINE OF SAN PEDRO STREET 42.15 FEET FROM THE INTERSECTION OF THE NORTHERLY LINE OF SAN AUGUSTINE STREET WITH THE WESTERLY LINE OF SAN PEDRO STREET; THENCE WESTERLY ON A LINE PARALLEL WITH SAN AUGUSTINE STREET, 75 FEET; THENCE NORTHERLY ON A LINE PARALLEL WITH SAN PEDRO STREET 35 FEET; THENCE EASTERLY ON A LINE PARALLEL WITH SAN AUGUSTINE STREET, 75 FEET TO A STAKE ON THE WESTERLY LINE OF SAN PEDRO STREET; AND THENCE SOUTHERLY ALONG SAID WESTERLY LINE OF SAN PEDRO STREET, 35 FEET TO THE PLACE OF BEGINNING.

APN: 259-32-082

Arb: 259-32-010 & 259-32-011

EXHIBIT B

TIE BACK ANCHORS

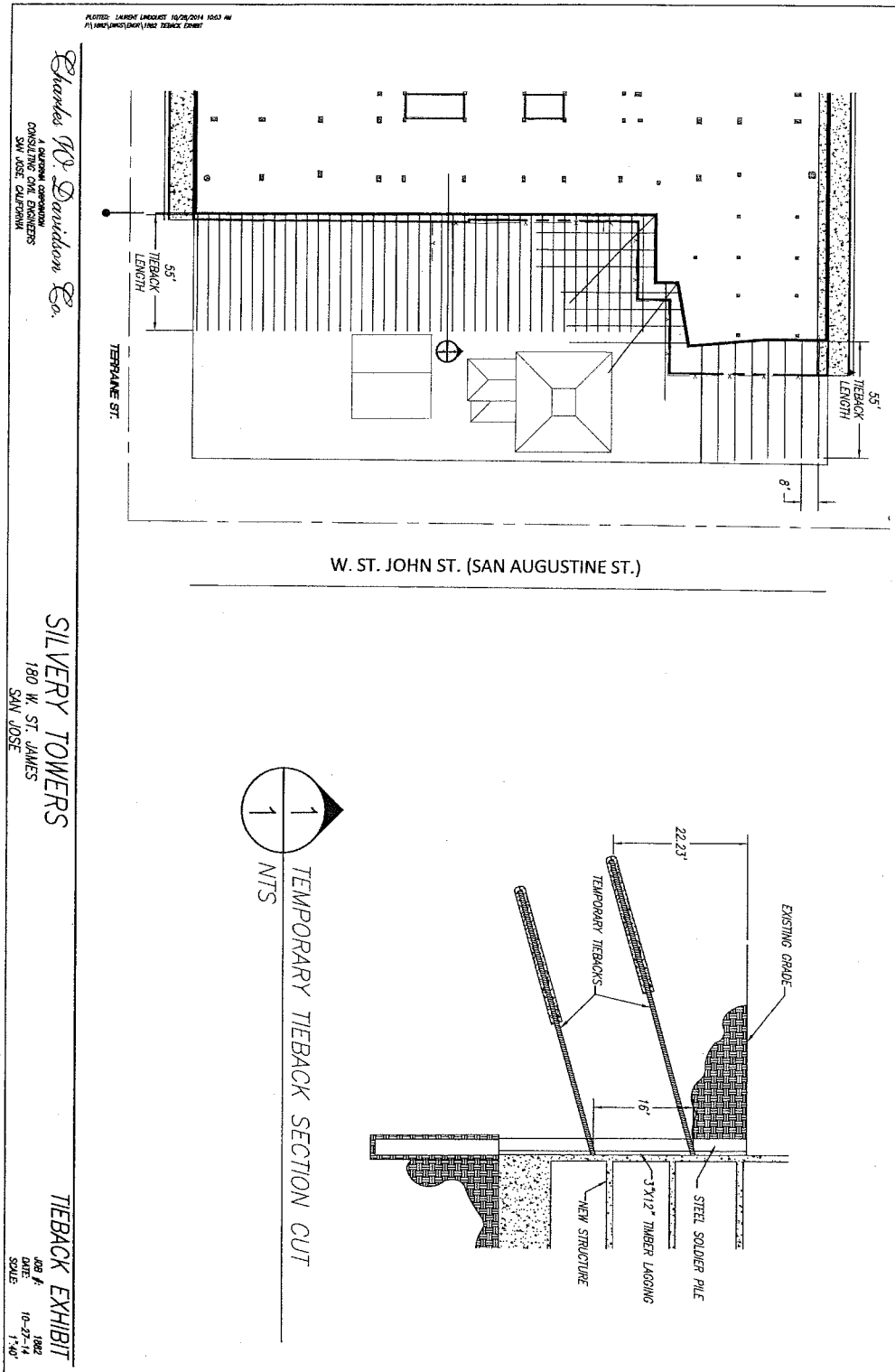


EXHIBIT C

INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

D-1 Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 0001); and
2. The coverage provided by Insurance Services Office form number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance; and.
4. For all design and engineering services to be provided by Contractor or Subcontractors, Professional Liability Errors and Omissions insurance for all professional services; and
5. Contractor's Pollution Liability Insurance, including coverage for all operations, completed operations and professional services (without exclusion for asbestos or lead).

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

D-2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.
4. Professional Liability Errors and Omissions: \$1,000,000 per claim/\$1,000,000 aggregate limit.
5. Contractor's Pollution Liability: \$1,000,000 each occurrence/aggregate limit

D-3 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and contractors; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City.

D-4 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The City, its officials, employees, agents, tenants, and contractors are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, agents and contractors.
- b. The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and contractors. Any insurance or self-insurance maintained by the City, its officials, employees, agents or contractors shall be excess of the contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, agents, or contractors.

- d. Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.

2. Workers' Compensation and Employers' Liability

Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City; except that ten (10) days' prior written notice shall apply in the event of cancellation for non-payment of premium.

D-5 Acceptability of Insurance

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

D-6 Verification of Coverage

Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Copies of all the required ENDORSEMENTS shall be attached to the CERTIFICATE OF INSURANCE, which shall be provided by the Contractor's insurance company as evidence of the stipulated coverages. This proof of insurance shall;

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

City of San Jose – Department of Finance
Risk Management
200 East Santa Clara St., 14th Floor Tower

San Jose, CA 95113-1905

D-7 Subcontractors

Contractors shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.